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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,541	12/31/2003	Carl Yee	S63.2B-13170-US01	5567

490 7590 07/18/2006

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

KOTINI, PAVITRA

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,541

Applicant(s)

YEE ET AL.

Examiner

Pavitra Kotini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-8, 10, 11, 13-16, 18, 20, and 21 are rejected under 35

U.S.C. 102(b) as being anticipated by Vigil et al. (U.S. 5320634).

In regard to **claims 1, 10, 18** Vigil et al. discloses an elongated, inflatable balloon (12, fig 1) having an outer surface (18, fig. 1), at least one incising component (28a, fig. 1), a pad having a outer surface (32, fig. 2A), wherein said pad is positioned on said balloon substantially parallel to and juxtaposed with said incising component (31, fig. 2A), said pad being located to engage said incising component with said outer surface of said pad to prevent damage to said balloon by said incising component when said balloon is in a deflated configuration (fig. 3B).

In regard to **claims 2, 11** Vigil et al. discloses said pad comprises a plurality of axially aligned sections (35 a-c, fig 2B).

In regard to **claims 4, 13, 21** Vigil et al. disclose a base (A, figure 2A) and an elongated blade (31, fig. 2A), and further wherein said base is mounted on said outer surface of balloon (32, fig. 3A), and said elongated blade is mounted on said base (31, fig. 3A).

In regard to **claims 5, 14** Vigil et al. discloses a balloon as recited in claim 4 wherein said pad is located to engage said base when said balloon is in its deflated configuration (fig. 3B).

In regard to **claims 6, 15, 20** Vigil et al. discloses a balloon as recited in claim 1 wherein a pad is positioned on either side of said incising component (33a,b fig. 2B).

In regard to **claims 7, 16** Vigil et al. discloses a balloon as recited in claim 1 wherein said balloon includes a plurality of incising components mounted on said balloon, axially oriented and substantially parallel to said axis of said balloon (28a,b fig.1).

In regard to **claim 8**, Vigil et al. discloses a balloon as recited in claim 1 wherein said balloon includes a plurality of incising components mounted azimuthally on said balloon (28a-c fig. 3A).

Claims 1, 3, 4, 6-8, 12, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Brien (U.S. 2005/0015107).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

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the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding **claim 1** O'Brien discloses an elongated, inflatable balloon (14, fig 2), at least one incising component (56, fig. 6,7), a pad having a outer surface (224, fig. 10), wherein said pad is positioned on said balloon (214, fig.10) substantially parallel to and juxtaposed with said incising component (256, fig. 10).

Regarding **claim 3, 12, 19** O'Brien discloses said pad (132 &136, fig. 7) is formed on said outer surface of said balloon (114, fig. 7) as a homogeneous structure with said balloon (Col. 6, lines 1-4).

In regard to **claim 4**, O'Brien discloses a base (124, fig.6) and an elongated blade (56, fig. 6), and further wherein said base is mounted on said outer surface of balloon (114, fig. 6), and said elongated blade is mounted on said base (124, fig. 6).

In regard to **claim 6**, O'Brien discloses a balloon as recited in claim 1 wherein a pad (132, fig.7) is positioned on either side of said incising component (136, fig. 7).

In regard to **claim 7**, O'Brien discloses a balloon as recited in claim 1 wherein said balloon (114, fig.6) includes a plurality of incising components (136a-b, fig.6) mounted on said balloon, axially oriented and substantially parallel to said axis (134, fig.6) of said balloon.

In regard to **claim 8**, O'Brien discloses a balloon as recited in claim 1 wherein said balloon includes a plurality of incising components (136a-c, fig.7) mounted azimuthally on said balloon (fig. 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 17, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vigil et al. in view of Grayzel et al. (U.S. 6942680). Vigil et al. teaches as disclosed above. Vigil et al. does not disclose base formed with a plurality of stiffeners. However, Grayzel teaches stiffening members on balloon to increase stiffness and rigidity to reduce twists or kinks. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Vigil et al. as taught by Grayzel to include stiffeners in the base. Such as modification would be to provide a stiffened base that exerts pressure on the balloon and the vessel wall uniformly, preventing "kinks" in the balloon.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jenusaitis et al. (U.S. 6562062).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pavitra Kotini whose telephone number is 571-272-0625. The examiner can normally be reached on M-F 8:30am to 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
6/17/06